

**REMARKS**

The Examiner has objected to the length of the abstract. The abstract has been amended to decrease its length. Accordingly, this objection should be withdrawn.

The Examiner has objected to the claim for priority for incorrectly listing the year the German application was filed. The claim for priority has been amended to correctly list the year the German application was filed as suggested by the Examiner.

The Examiner has objected to claim 5 as lacking antecedent basis for the phrase “calculated with the aid of the two profiles. To correct this issue claim 5 has been amended to depend from claim 2 as suggested by the Examiner.

Claims 12 and 15 have been objected to for reciting “in one of claim 9”. Applicants have removed the words “one of” from these claims as suggested by the Examiner.

Claims 1-3, 5-13 and 15 stand rejected under 35 USC 103(a) as being unpatentable over Yang in view of Kato. This rejection is respectfully traversed.

Independent claim 1 includes “c) determining a second position information item of the alignment mark in the predetermined direction, the first position information item determined in a) being corrected with the aid of the line profile of the alignment mark determined in b).” Claim 9 has similarly been amended to include the limitations of claim 12 and to specify that the data processing device determines the second position information “by correcting the first position information item utilizing the line profile of the alignment mark.” Determining the second positional information by correcting the first position information as claimed is described in the specification page 12, lines 24-27, and page 15, lines 5 to 17.

Neither Yang nor Kato discloses a second position information item that is determined by correcting the first position information item utilizing the line profile as claimed. Note that in the pending action, the Examiner does not even allege that Yang or Kato includes determining the second positional information in the claimed manner.

Furthermore, neither of these references discloses the advantage achieved by this process step, i.e., the possibility of combining two optical measurement methods, one measurement method being optimized for optical position termination and the other measurement method being optimized for optical profile termination of an alignment mark. This combination enables the calculation of particularly precise position information. Accordingly, it would not be obvious to modify Yang and Kato to include determining the second positional information in the claimed manner.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no.

**543822004600.**

Dated: July 25, 2006

Respectfully submitted,

By

Jonathan Bockman

Registration No.: 45,640

MORRISON & FOERSTER LLP

1650 Tysons Blvd, Suite 300

McLean, Virginia 22102

(703) 760-7769